



Application granted.

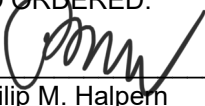
STATE OF NEW YORK
OFFICE OF THE CLERK

The parties are directed to file a proposed Stipulated Confidentiality Agreement and Protective Order, with the addendum described herein, by 5:00 p.m. on May 9, 2022.

The Clerk of the Court is respectfully directed to terminate the motion sequence pending at Doc. 165.

Writer's Directed

SO ORDERED.


Philip M. Halpern
United States District Judge

Dated: White Plains, New York
May 5, 2022

LETITIA JAMES
ATTORNEY GENERAL

Via ECF

Honorable Philip M. Halpern
Hon. Charles L. Brieant Jr.
Federal Building and Courthouse
300 Quarropas Street, Room 530
White Plains, New York 10601

Re: Smolen Jr. v. Wesley, 16 Civ 2417 (PMH)

Dear Judge Halpern:

This Office represents Defendants Wesley, Stevens, Lampon, Connelly, Pollic, Pressley, and Cabral ("Defendants") in the above-captioned case. I write, with consent from Plaintiff's counsel, to request a deviation from the Court's stipulation and protective order to include a provision limiting Plaintiff's access to Confidential Information.

Plaintiff brings this 42 U.S.C. § 1983 action claiming that while incarcerated at Green Haven Correctional Facility, he was assaulted by correction officers on two separate dates. As a result of Plaintiff's allegations, the Department of Correction and Community Supervision's ("DOCCS") Office of Special Investigations ("OSI"), or its predecessor entity the DOCCS Office of the Inspector General, conducted an investigation and issued a report. DOCCS treats all documents pertaining to the OSI or Inspector General Office's investigation as highly confidential because they contain names of witnesses and other information that could impair future investigations and are therefore protected by the Law Enforcement Privilege. Balancing Plaintiff's need for discovery with DOCCS's need to protect its ability to conduct future investigations, DOCCS will agree to provide the OSI or Inspector General Office's documents to Plaintiff's counsel, with social security numbers and any personal address of any DOCCS employee or witness redacted, under an Attorneys Eyes Only confidentiality provision. Plaintiff is currently incarcerated and should not be permitted access to this sensitive security information.

The Court's stipulation and protective order does not encompass sensitive law enforcement documents such as OSI or Inspector General Office's investigatory documents. Accordingly, Defendants propose an addendum to the Court's stipulation and protective order, substantially

identical to that agreed by the parties and approved by Your Honor in the case of *Chin v. CO PT Squire*, 20-Cv-3711 (*see* Docket Nos. 76-79 therein), in the form attached hereto.

We thank the Court for its attention to this matter.

Respectfully Submitted,

/s/

Gee Won Cha

Assistant Attorney General

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cc: Plaintiff's Counsel (via ECF)